

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

FAIR HOUSING RESOURCE CENTER, )  
INC., )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
DJM'S 4 REASONS, LTD., et al., )  
 )  
Defendants. )

CASE NUMBER 1: 08 CV 2848  
JUDGE DONALD C. NUGENT  
MEMORANDUM OPINION  
AND ORDER

This matter is before the Court on Defendants' Motion for Attorney Fees and Costs (ECF #74). The Court permitted Plaintiff to take additional discovery regarding Defendants' Motion for Attorney Fees and Costs and permitted the parties to file additional materials in support or opposition to Defendants' Motion. Defendants filed a Revised Itemization of Attorney Fees and Costs through January 27, 2010 and Plaintiff filed an additional brief in opposition to the Motion. The Motion is now ready for decision.

Defendants move for attorney's fees pursuant to 42 U.S.C. § 3613(c)(2) which provides that the court, in its discretion, may allow the prevailing party reasonable attorney's fees and costs. Section 3613(c)(2) of the Fair Housing Act has been interpreted as allowing defendants to recover attorney's fees only if the plaintiff's case is "frivolous, unreasonable, or groundless, or ... the plaintiff continued to litigate after it clearly became so." *Foster v. Barilow*, 6 F.3d 405, 408 (6<sup>th</sup> Cir. 1993) citing *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412, 422 (1978).

In this case, Defendants have failed to demonstrate that Plaintiff's case was frivolous,

unreasonable or groundless. Indeed, Plaintiff's claims survived summary judgment and directed verdict. Accordingly, Defendants are not entitled to an award of attorney's fees and costs pursuant to 42 U.S.C. §3613(c)(2) and Defendants' Motion for Attorney Fees and Costs (ECF #74) is denied.

IT IS SO ORDERED.

DATED: April 27, 2010

  
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DONALD C. NUGENT  
UNITED STATES DISTRICT JUDGE